

## REMARKS AND ARGUMENTS

Applicant acknowledges with appreciation the Examiner's thorough review of the claims. The specificity of rejections, and generally the facilitation of proficient processing of this application. Applicant regrets difficulties that may have been caused by time extensions.

Attached is a Terminal Disclaimer that serves to overcome the double patenting rejection over claims of Applicant's U.S. Patent No. 6,279,271. A check in payment of the disclaimer fee is enclosed.

Regarding Election/Restrictions, Applicant reply of 6/29/2007 was treated as an election without traverse. The reason was that the Applicant reply was merely a collection of facts that do not amount to a persuasive argument as to why the inventions were not distinct. Applicant respectfully submits a Request for Reconsideration of Restrictions, attached.

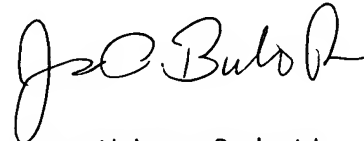
Claim 17 was objected to because there was lack of antecedent basis for the limitation "said upstanding-face" of the high and low ledgers. Claim 17 was withdrawn for other reasons, so that problem is mute.

Claims 17-18 were rejected under 35 U.S.C. 102(e) as being anticipated by Mickelsen (4860502). Although, Applicant does not believe that gutters in fixed joist cavities can anticipate the current invention's flexible grid structure, Applicant for other reason has voluntarily withdrawn claim 17; and Applicant has modified claim 18, such that the supporting members have an upper-face with an adjacent-upstanding.

Applicant withdrew claim 17 because it seems to have gotten too voluminous with no real benefit. Regarding claim 18, because of its value to the invention, Applicant prefers to replace the adjacent vertical-face element of the support means with the adjacent upstanding face element of the support means. Said upstanding -face of the ledgers, or support means, was included in claim 1, but excluded in claims 17 and 18. Said benefit of the resulting tray configuration, where grid elements, particularly sloping members, or rafter-members, can be installed, adjusted and lifted out of position predominately by hand, without interference of fixed joist members, or problems associated with diverse joist configurations, ensures that Mickelsen and the other referenced prior art, which is also attached to and dependent on deck-joist configuration, do not anticipate the present invention.

In conclusion, Applicant submits that the amendments and arguments presented herein obviate and moot all objections and rejections of records, thereby rendering all remaining claims allowable. It is therefore respectfully requested that the Examiner withdraw the rejections, allow the pending claims and pass the application to issue.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "J. A. Burkart Jr.", with a stylized, cursive script.

James Alphonse Burkart Jr

Applicant

703-758-21999

**REQUEST FOR RECONSIDERATION OF RESTRICTIONS**

Regarding the Office Action Summary mailed September 19, 2007, given that the response to communications filed on June 29, 2007, is not a final action, Applicant appreciates an opportunity to supplement his previous communications regarding restrictions.

It was stated in said Office Action Summary that Applicant did not distinctly and specifically point out supposed errors in the restriction requirement, but merely presented collection of facts that do not amount a persuasive arguments to why the inventions are distinct, the election has been treated as an election without traverse. Applicant will try to supplement the previous communications with such persuasive communications in the following. The claims in question are independent claims 1, 17 and 18. Claim 17, has been withdrawn for unrelated reasons, so is not a factor.

**Species I-VIII**

Applicant prefers to forego analysis of Species IV and VIII. Regarding all other species designated by the Examiner, there are essential structural elements common to all the species. If there is a projection from the upper-surface of the sloping-member, there is a hollow or void in the cross-member to accept it. Conversely, if there is a depression, such as a hollow, or void in the upward -face of the sloping member, there is a projection from the cross-member to penetrate the hollow or void. Although one embodiment may be preferable over another, they all share the same structural properties and should all be cover by the same patent. To place restrictions would put an unfair burden on the Applicant to make multiple patent applications for the same invention. Because of the aforesaid similar structure, it is unlikely that research regarding these embodiments could place an unfair burden on the Examiner.

Pertinent phrases of claim 1 read as follows:

one or more projection-depressions of said upper-face such as one or more partially driven nails, or such as one or more drilled holes,

each end-portion proximate one or more said projection-depressions of said sloping-member, wherein said cross-members interface with said projection-depression of said sloping-members, wherein said end-portions of said cross-members are held by said interface with said sloping members, a grid support structure is formed, whereby grid members can be snapped, slid, or set into position, unsnapped, slid, or lifted out of position without requiring tools for fastening or

unfastening, whereby the grid can be installed, adjusted, and uninstalled from below itself, whereby the ease of installation and removal is facilitated, and whereby, access to the area above the grid for maintenance and other reasons is greatly facilitated, wherein the upper-faces of the cross-members are substantially co-planar, said panels resting upon said cross-members, oriented with rise and fall of corrugations normal to said low-ledger, said panels overlapping, wherein a substantially planer shedding surface is formed over the grid, whereby said panels can be set into position, shifted, slid or lifted out of position without requiring tools for fastening or unfastening, whereby the panels can be installed and uninstalled from below, whereby the ease of installation and removal is facilitated, and whereby, access to the area above the panels for maintenance and other reasons is greatly facilitated.

Pertinent phrases of amended claim 18 read as follows:

a plurality of rafter-member, said rafter-member having a first-end and a second-end, said rafter-member substantially extending from said upward-face of said first-side support means to said upstanding-face of said second-side support means, said first end of said rafter -member disposed above said upper-face of said first side support means, said second end of said rafter-member disposed above said upper-face of said second support means, wherein said rafter-member is longitudinally retained by said upstanding -faces of said support means and said rafter-member is supported at each end by said upper- faces of said support means, a number of said rafter-members positioned at substantially uniform intervals from each other, said upper face of said rafter-member having one or more projection-depressions,

one or more cross-members, each cross-member comprising a middle-portion and two end-portions, each end-portion with an upper-face, the middle-portion with an upper-face, said cross-members positioned transverse to said rafter-members, said middle-portions of said cross-members substantially extending from one rafter-member to the next, said end-portions of said cross-members disposed over said upper-faces of said rafter-members, each end-portion proximate one or more said projection-depressions of said rafter-member,

wherein said cross-members interface with said projection-depression of said rafter-members, said end-portions of said cross-members are held by said interface with said members, whereby cross-members can be snapped, slid, or set into position, unsnapped, slid, or lifted out of

position, whereby cross-members and rafter-members can be installed, adjusted, and uninstalled from below, whereby the ease of installation and removal of cross-members is facilitated, and whereby, access to the area above the grid for maintenance and other reasons is greatly facilitated.

#### **Species X – Species XII**

Figs. 29, 30 and 31 show three attachment means of a low-ledger. The essential properties of the invention, stated in claim 1 as an upward-face and an adjacent-upstanding face, are identical for each implementation. Said essential properties of the low-ledger stated in independent claim 1, read as follows:

a low-ledger, with an upper-face and an adjacent upstanding-face, said upstanding-face extending above said upper-face.

In fact the embodiment of the low-ledger in each of the implementation is substantially identical.

Said embodiment is described in dependent claim 2:

The shedding apparatus of claim 1, wherein said low-ledger comprises a 2x2 fastened to a face of a 5/4 board, whereby said low-ledger can be proficiently manufactured from wood and is aesthetically pleasing in a deck environment.

The same argument regarding claim 1 applies to claim 18, which has been amended for unrelated reasons to read:

a first-side support means having a upward-face and an adjacent upstanding-face,  
a second-side support means having an upward-face and an adjacent upstanding-face, said upstanding-face of said first-side support means opposed said upstanding-face of said second-side support means.

The essential elements and physical structure of the present invention are identical in the embodiments shown in Figs 29-31.

Various attachment means are peripheral to the independent claims of the invention. The figures show the versatility of the invention in various deck environments. These are actual installation conditions that the Applicant encounters. What varies is the deck environment and therefore how the ledgers are attached. Attachment means vary with the deck environment. But the essential physical properties when compared to each of the independent claims remain virtually identical. The inventor does not know why this restriction should even be contemplated regarding the present invention and the independent claims. The attachment means do not affect independent claims 1 or 18. The Applicant should not be restricted because his invention is versatile and can use various attachment means.

The attachment means of a low-ledger are not even part of claims 1 or 18.

#### Species XX – Species XXIII

The same arguments regarding variations in implementation of the low-ledger in various deck environments, apply for implementations of the high-ledger in various deck environments, the environments as shown in Figs. 32-35. The essential physical properties of the invention, an upward face and an adjacent upstanding-face remain identical. A variation of an embodiment of a high-ledger is the implementation of Fig. 32, in which a deck board member of the high-ledger embodiment is replaced by a vertical surface of the deck environment, but such does not affect the independent claims.

Said essential properties of the low-ledger stated in independent claim 1, read as follows:

a high-ledger, with an upper-face and an adjacent upstanding-face, said upstanding-face extending above said upper-face.

Said essential properties of ledgers, stated in amended independent claim 18 read as follows:

a first-side support means having a upward-face and an adjacent upstanding-face,  
a second-side support means having an upward-face and an adjacent upstanding-face, said upstanding-face of said first-side support means opposed said upstanding-face of said second-side support means.

Species XXX – Species XXXII

Relevant phrases of claim 1 regarding corrugated panels, reads as follows:

one or more panels having corrugations,

....

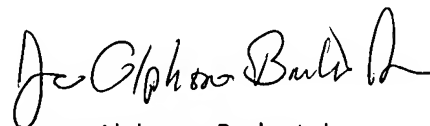
wherein the upper-faces of the cross-members are substantially co-planar, said panels resting upon said cross-members, oriented with rise and fall of corrugations normal to said low-ledger, said panels overlapping, wherein a substantially planer shedding surface is formed over the grid, whereby said panels can be set into position, shifted, slid or lifted out of position without requiring tools for fastening or unfastening, whereby the panels can be installed and uninstalled from below, whereby the ease of installation and removal is facilitated, and whereby, access to the area above the panels for maintenance and other reasons is greatly facilitated.

Relevant phrases of amended claim 18 regarding corrugated panels, reads as follows:

...wherein the upper-faces of the cross-members are substantially co-planar to thereby provide a support surface for panels.

In short, variation in shape of the corrugations of panels is not fundamental to the invention and variations are not mentioned in any of the claims. Figs. 36-38 illustrate that various corrugation shapes can be used with the invention.

Applicant respectfully requests that all restrictions for the above discussed species, be removed.

  
James Alphonse Burkart, Jr

703-758-1999